

Message

From: Chemerys, Ruth [Chemerys.Ruth@epa.gov]
Sent: 6/22/2020 1:43:21 PM
To: Hurlid, Kathy [Hurlid.Kathy@epa.gov]; Kupchan, Simma [Kupchan.Simma@epa.gov]
Subject: RE: Status of various 404(g) draft items

Correction: I did send the 2 enforcement drafts out on Friday, so don't need to send again (I'll remind folks tomorrow)

If we get revised drafts from Brett on delayed effective date, I will send link to the workgroup.

From: Chemerys, Ruth
Sent: Monday, June 22, 2020 9:22 AM
To: Hurlid, Kathy <Hurlid.Kathy@epa.gov>; Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: Status of various 404(g) draft items

Kathy and Simma-

Below is my understanding of where various pieces for the proposal stand.

Also, I'm sending drafts to Mindy for review once we've addressed workgroup comments if a draft doesn't need to go back to the workgroup again. It would be helpful to know if you want Carrie to review all of the drafts concurrently with Mindy. I can include you and Carrie on the emails when I send to Mindy.

Drafts already reviewed by workgroup, reviewed by Mindy, and comments addressed (**Q for Simma: do you want to have your management review? I did cc you when these went to Mindy**)

- Self-issuance of permits - preamble only
- Conformance with 404(b)(1) guidelines - preamble only

Reviewed by workgroup and ready to go to Mindy (Carrie?) for review (**Q for Simma: do you want these to go to Carrie as well? I've been giving Mindy a suggested one-week review time**)

- No less stringent than – preamble and reg (Stef revised based on last Thursday's workgroup call)
- Possibly could send tribes as "affected states" – preamble and reg (Note: question pending w/ OST c **Ex. 5 Deliberative Process (DP)** have email in to Fred Leutner)
- 404(b)(1) guidelines and consideration of potential tribal impacts - preamble only

For workgroup call next Thursday (I will send this AM; workgroup already has criminal enforcement)

- Criminal Enforcement
- Judicial review
- Possibly addition of land to a tribal assumed program (**Simma: This is one for which I'd hoped you would review Tod's comments before workgroup; however, at this point, you could review with the workgroup**)

Revised drafts pending after initial workgroup discussion

- Partial assumption
- Delayed effective date (I don't see revised draft from Brett yet)

Initial drafts being reviewed by Kathy

- Retained waters
- Retained adjacent wetlands

ESA – Alexis' initial draft reg sent to Kathy and me but needs to be revised (**Kathy: does Alexis know this?**); would then need draft preamble

Mitigation – pending further discussion per Kathy's previous email

Background

- Rose has partial drafts of sections describing existing regs
- Affect on existing state and tribal regs/programs – **this was listed as assigned to Kathy/Simma**
- Case law - ?

EO section (doesn't need workgroup review): 1st draft developed; a few questions pending in OGC on a few things

Thanks!

Ruth

Ruth Chemerys

EPA Office of Water

Office of Wetlands, Oceans & Watersheds

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From: Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Sent: Monday, June 22, 2020 8:00 AM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>
Cc: Chemerys, Ruth <Chemerys.Ruth@epa.gov>
Subject: Re: If you have 5 min before call today.....

Morning Simma,

Thanks for your note.

So as for what is competed etc Ruth is the master of all moving pieces so copying her here. Ruth can you confirm with Simma on what needs reviewing and crafting. Thanks.

Ex. 5 AC/DP

I think that is it on the rule. I think this week is going to be busy with FL.

Could you do me a favor and send me the NOC doc Kelly put on the sharepoint? Still can't get to it. New company in process but this week will be a challenge until I get it.

Thanks, Kathy

Sent from my iPhone

On Jun 20, 2020, at 11:28 PM, Kupchan, Simma <Kupchan.Simma@epa.gov> wrote:

Hi Kathy,

I'm sorry I wasn't free on Thursday morning to discuss, and I'm also sorry that I was behind in getting my preamble sections in. Perhaps we can check in late Monday or early Tuesday. To respond to your points and pose a few follow ups:

- I'll be discussing the mitigation issue with Carrie on Monday afternoon, but can you give me a very rough idea of the type of language you are thinking of before I speak to her. What you are proposing sounds as if it would probably be fine, but I want to make sure I am clear on what you mean.

Ex. 5 AC/DP

Ex. 5 AC/DP

Ex. 5 AC/DP

- I think I am now up to date on reviewing all papers, except those Ruth sent out on Friday, which I can review by Weds, but let me know if I'm missing anything.

Thanks!

Simma Kupchan
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WJC North Building # 7426Q
202-564-3105

From: Hurlid, Kathy <Hurlid.Kathy@epa.gov>
Sent: Thursday, June 18, 2020 9:10 AM
To: Kupchan, Simma <Kupchan.Simma@epa.gov>
Subject: If you have 5 min before call today.....

Want to talk to you about:

Ex. 5 AC/DP

Kathy Hurlid
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